

### REMARKS

In the Non-Final Office Action mailed January 4, 2006, the Examiner considered claims 21-26. Claims 21-26 stand rejected. Applicants have amended claims 21, 23, 25, and 26; cancelled claims 22 and 24; and added new claims 33-54. No new matter has been added. For the reasons set forth below, the Applicants respectfully request that the Examiner reconsider the rejections and allow all the pending claims.

#### Claim Rejections - 35 U.S.C. § 112

In the Office Action, the Examiner rejected claim 21 and its dependent claims under 35 U.S.C. § 112 ¶ 2 for being unclear.

Applicants respectfully disagree with the rejection but assert that the rejection is moot in light of the amendments to claim 21. It is respectfully submitted that claim 21, as amended, complies with the requirements of 35 U.S.C. § 112 ¶ 2.

#### Claim Rejections - 35 U.S.C. § 102

Claims 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 5,724,521 to Dedrick ("*Dedrick*").

The Applicants submit that *Dedrick* does not disclose the combination set forth in claim 21, which includes, *inter alia*, "a photographic likeness of the user", "confidence factors that decay over time", and "altering the photographic likeness of the user to incorporate the selected content into the photographic likeness of the user."

*Dedrick* discloses displaying electronic advertisements to a user where user profile data is compared to a consumer scale to determine where the characteristics of the user falls on the consumer scale. An advertiser generates the consumer scale to indicate how much he is willing to pay for sending the advertisement to the users. Each advertiser is charged a fee based on where characteristics of the user falls on the consumer scale. (Col. 18, lns. 40-43). *Dedrick* discloses that the user profile data includes information such as "marital status, color preferences, favorite sizes and shapes, preferred learning modes, employer, job title, mailing address, phone number, personal and business areas of interest, the willingness to participate in a survey, along with various lifestyle information." (Col. 3, lns. 42-47). However, *Dedrick* does not disclose that the user profile data

can include a "photographic likeness of the user". In fact, *Dedrick* teaches away from collecting, using, or altering a "photographic likeness of the user" because such identifying information is not processed nor is the identity of the user revealed; for example, *Dedrick* states: "The end user initially enters the requested data and the non-identifying information is transferred to the metering server 14. That is, the information associated with the end user is compiled and transferred to the metering server 14 without any indication of the identity of the user (for example, the name and phone number are not included in the computation)." (Col. 3, lns. 48-54). In addition, *Dedrick* states that "statistic compilation process 26" compiles content specific information but such information does not "reveal the identity of the end user who consumed the advertisement." (Col. 9, lns. 46-48). For the foregoing reasons, *Dedrick* does not disclose or suggest using "a photographic likeness of the user."

Also, nowhere in *Dedrick* is it disclosed or suggested of using "confidence factors that decay over time" or "altering the photographic likeness of the user to incorporate the selected content into the photographic likeness of the user."

In an earlier Office Action, the Examiner cited US Pat. No. 6,199,106 to Shaw et al. ("*Shaw*") and US Pat. No. 6,513,015 to Ogasawara ("*Ogasawara*") to reject claims having elements similar to those recited in claim 21. However, *Shaw* and *Ogasawara*, either singly or together, do not disclose or suggest the claimed combination set forth in claim 21, which includes, *inter alia*, "confidence factors that decay over time", and "altering the photographic likeness of the user to incorporate the selected content into the photographic likeness of the user." *Shaw* discloses displaying a targeted message to a user while the user creates an e-mail message. When the user is ready to transmit the e-mail message, the user's local client establishes a connection to an e-mail server. The e-mail server updates the targeted message, and the local client displays the updated message to the user after the connection is terminated. *Shaw* does not disclose or suggest "confidence factors that decay over time", nor a "photographic likeness of the user" and certainly not "altering the photographic likeness of the user to incorporate the selected content into the photographic likeness of the user." *Ogasawara* discloses an electronic shopping system that captures a "visual image" of the customer as he or she pass through an entrance of a retail facility. An employee of the retail facility can easily recognize an important customer because the customer's record contains their visual image. "Because each customer record includes a visual image of the customer, including the customer's face, hair and a portion of their clothing, the

establishment's staff can easily distinguish "Mr. Jones" from any one of a number of other customers in the store." (Col. 15, lns. 25-29). There is no motivation to combine these references. Assuming *arguendo* that adequate motivation exists, the proposed combination still does not disclose or suggest "confidence factors that decay over time", or "altering the photographic likeness of the user to incorporate the selected content into the photographic likeness of the user" as recited in claim 21. In fact, *Ogasawara* teaches away from altering the photographic likeness of the user because such alteration may make the customer unrecognizable and thus the staff may not be able to "easily distinguish" customers.

For the foregoing reasons, the Applicants submit that neither *Dedrick* nor *Shaw* combined with *Ogasawara* disclose or suggest the claimed combination set forth in claim 21, and thus the Applicants respectfully request reconsideration and allowance of claim 21. Claims 25-26 depend from claim 21. Accordingly, they are also patentable over *Dedrick* and also *Shaw* combined with *Ogasawara* for at least the reasons provided earlier with respect to claim 21.

#### New claims

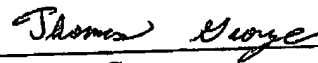
For at least the reasons provided earlier with respect to claim 21, the Applicants assert that new claim 33 is patentable over *Dedrick*, and also *Shaw* combined with *Ogasawara* because they do not disclose or suggest the combination set forth in claim 33, which includes, *inter alia*, "altering the photographic likeness of the user to incorporate the selected content into the photographic likeness of the user." Claims 34-45 depend from claim 33. Accordingly, they are also patentable over the prior art references.

Similarly, for at least the reasons provided earlier with respect to claim 21, the Applicants assert that new claim 46 is patentable over *Dedrick*, and also *Shaw* combined with *Ogasawara* because they do not disclose or suggest the combination set forth in claim 46, which includes, *inter alia*, "altering the photographic likeness of the user to incorporate the selected content into the photographic likeness of the user." Claims 47-54 depend from claim 46. Accordingly, they are also patentable over the prior art references.

**Conclusion**

For the foregoing reasons, the Applicants respectfully request that the Examiner allow all the pending claims. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below. The Office is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 50-1847.

Respectfully submitted,



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20152224.2

Application No.: 09/645,292  
Filed: 08/24/2000

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